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AIR COMMAND AND STAFF COLLEGE

EFFECTIVENESS OF THE GENEVA CONVENTION  
RELATIVE TO AMERICAN POW'S

By

F.  
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A RESEARCH STUDY SUBMITTED TO THE FACULTY

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## ABSTRACT

→ The effectiveness of the Geneva Convention relative to the American prisoner of war (POW) has often been questioned. This study addresses this problem by tracing the background of the POW problem. A brief history is given of the POW treatment and then this treatment is traced through the major wars in which the United States has been involved. Special emphasis is given to North Korea and North Vietnam. The conclusion drawn from this study is that the Geneva Convention is only as effective as the competing belligerents allow. No recommendations are suggested as the problem lies with the belligerents and not with the Geneva Convention.

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## CHAPTER I

### INTRODUCTION

Many questions have been asked of this writer and other service personnel concerning the effectiveness of the Geneva Convention relative to American prisoner of war activities. This frequently asked question plus the writer's concern for the welfare of prisoners of war has prompted this research study.

The objective of this research study will be to determine this effectiveness with special interest on the Korean and Vietnam conflicts.

Since travel, relative to this study, has not been authorized all research had to be accomplished at the Air University Library with the exception of a few personal interviews with some of the prisoner of war wives. An additional limitation of time is involved since this paper must be completed by 11 May 1973.

Some of the assumptions which had to be made are that any future conflicts which will have prisoner of war problems will be limited conventional wars. A general war which has nuclear involvement is now considered by most



experts as being one of relative short duration in which prisoners would not be a significant problem. It also must be assumed that all belligerents understand the provisions of the Geneva Convention whether they follow it or not. North Korea, although not a signatory of the Geneva Convention, agreed along with the People's Republic of China to abide by the Convention agreements during the past Korean conflict. The last assumption is that North Vietnam is a signatory of the Geneva Convention and was at the beginning of the United States involvement in the Vietnam campaign.

The approach of this study will be to develop an understanding of the prisoner of war problem by tracing its background. This can only be done by starting with a brief history of the treatment of prisoners and then trace the major wars that the United States has been involved in from the American Revolution to World War II. After this background Chapter III will trace the development of the Geneva Convention from the first writings of the great philosophers, to the first Convention in 1864 at Switzerland, and finally to the last revision which was made in 1949. What the Geneva Convention is and what are its provisions are also discussed in this chapter.

Chapters IV and V are devoted entirely to the Korean and Vietnam conflicts respectively. Explored in the Korean

chapter are the Communists' policy toward the Geneva Convention, specific cases of how the Conference was violated, and its effectiveness. The following chapter on North Vietnam discusses the plight of the United States prisoners of war in North Vietnam, the North Vietnamese policy toward the Geneva Convention, some specific cases of how the Convention was violated, and its effectiveness.

The last chapter will discuss the conclusion of the writer pertaining to continued negotiation and whether the Geneva Convention will ever be effective with belligerents who refuse to honor it.

To start this search for some of the many answers, the next chapter begins the background.

## CHAPTER II

### HISTORY OF AMERICAN PRISONER OF WAR

To fully understand the prisoner of war problem a brief background is necessary to explain the definition of prisoner of war, how they evolved, and what their situation has been. To this background or history must be added a development of the wars in which the United States has been involved. This development is necessary to allow the reader to assess the progress or regression of the conditions surrounding the prisoners of war. The discussion in this chapter will be limited to the American Revolution, Civil War, World War I, and World War II. The Korean and Vietnam conflicts will be discussed in depth in later chapters. There are other wars which have not previously been mentioned. These will be touched upon lightly at this time because of limitation of time and information available pertaining to the treatment of prisoners of these campaigns.

#### Other Wars

The first of these wars was the War of 1812 between England and the United States which lasted until 1815. The

second was the Mexican War between Mexico and the United States, lasting from 1846 until 1848. The last is the Spanish-American War between the United States and Spain which was fought in 1898.<sup>1</sup> The only information this writer could obtain about the prisoners of war of these campaigns has been generalities which equate to such terms as excessive brutality, lack of proper diet, disease, and death from improper medical facilities.\* There were no specifics that could be found. The conclusion is that the treatment of prisoners of war appears to be no better or worse than those which will be cited later on in this chapter. With this information in mind we will begin with the background.

### Background

Since the beginning of time there have been wars and rumors of wars and with every armed conflict there is the ever present by-product called prisoners of war. The prisoner of war's lot has never been a pleasant one and the annals of history are filled with pages of these sad state of affairs. Their treatment has run the gamut of extremes of cruelty, neglect, depravity, and maltreatment as human beings.

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\*This information on the treatment of prisoners was obtained from the books: The US and Mexico 1821-1848 by George L. Rives, The Spanish American War by French Ensor Chadwick, and The Diplomacy of the War of 1812 by Frank A. Updyke.

In early history the term prisoner of war did not really apply, for the defeated enemy was promptly destroyed on the battlefield. "According to Chinese history, the ancient Chinese would invariably decapitate their prisoners and use the pile of heads as a warning to their enemies."<sup>2</sup> The Old Testament has similar tales of brutality as Samuel quotes the Word of the Lord to Saul: "Now go and smite Amalek, and utterly destroy all they have, and spare them not; but slay both man and woman, infant and suckling, ox and sheep, camel and ass."<sup>3</sup> Slaughtering of prisoners was sometimes practiced to terrify the enemy or to satisfy sadistic impulses of the conqueror. Captives were considered as no more than a piece of property the same as one might think of his cattle and the only future that faced the captives was a life of enslavement.

"During the christian wars it was considered a virtue to put non-believers to death."<sup>4</sup> The history of the Crusades reveals some of the bloodiest treatment of prisoners ever recorded. The slaughter following the fall of Jerusalem and the murder and pillage after the fall of Constantinople are two examples.<sup>5</sup>

Early Philosophers. As the 16th and 17th centuries evolved, some philosophers began to express their ideas about war and as though in afterthought the effects of captured prisoners were mentioned. Possibly the most

famous of these was Hugo Grotius. Grotius observed that victors had the right to enslave their enemies but he advocated exchange and ransom instead. This was further expanded in 1648 by the Treaty of Westphalia which released prisoners without ransom, thus ending the era of widespread enslavement of prisoners of war.<sup>6</sup> In 1748 Montesquieu, the French philosopher, stated that "the only right that a captor had over his prisoners was to prevent him from doing harm."<sup>7</sup> Thus it is with this background one comes into the period of the American wars and their involvement in the question of treatment for prisoners of war, the first of which was the American Revolution.

### American Wars

The American Revolution. The war between the American colonies and England was the first of many wars to face the United States as She made her way through the pages of history. It's famous for the passage often quoted as "the shot that was heard around the world." The campaign started in 1775 and was to last until 1783 when it was terminated with the signing of the "treaty of Paris."<sup>8</sup>

Famous battles such as Lexington, Concord, Bunker Hill, Saratoga, and Yorktown are brought to mind and one thinks of all the glory associated with them and the gallant men who gave their lives in these battles. However, little is

ever mentioned about the not so glorious times spent by those so unlucky as to be captured and become prisoners of war. The fate of these people still rested with the belligerents since there were no formal treaties or conventions to rely upon. The British were not hesitant to apply the same harsh punishment they were accustomed to meting out during the domestic colonial disturbances. The treatment of prisoners was so bad that General George Washington threatened General Thomas Gage, of the British Army, that the colonists would treat the British prisoners on the same terms as ours were treated.<sup>10</sup> This probably illustrates a basic principle that has influenced prisoner of war practices in that most, (this writer emphasizes most as it will be shown later this is not always true), belligerents tend to treat prisoners in the same manner that their prisoners are treated, be it good or bad. The sad thing for prisoners in this was the fact that their treatment was usually bad. There was slow acceptance of the idea that a prisoner was a defenseless human being.

Civil War. With the close of the American Revolution an end came to America's first external war. The beginning of the Civil War was to be Her first and only internal campaign. The conflict between the Union and the Confederate States was probably one of the bloodiest and goriest wars ever fought. This was a war of infamy which pitted

father against son and brother against brother. Thousands of casualties were incurred by both sides during the years 1861 until 1865 when General Robert E. Lee surrendered to General Ulysses S. Grant at Appomattox on April 9, 1865 bringing the Civil War to an end.<sup>11</sup>

While most of the great historians remember the famous battles which were fought at Bull Run, Antietam, Gettysburg, Chancellorville, Vicksburg, Chattanooga, and the Wilderness, these same historians tend to forget such places as Elmira, Camp Chase, Johnson's Island, Camp Douglas, Point Lookout, Delaware, and Rock Island, which were the principle prison camps for the North. The South had even more infamous prison camps established at Richmond (Libby and Belle Island); Salisbury, North Carolina; Florence and Columbia, South Carolina; Millen, Macon and the worst of them all, Andersonville, Georgia.<sup>13</sup>

Andersonville. The Andersonville prison was a stockade of 16½ acres, later enlarged to 26, built in the winter of 1863 by Captain W. S. Winder under the orders of General J. H. Winder. The site was located 60 miles northeast of Macon, Georgia, in Sumter County.

In the summer of 1863 the federal authorities ended an agreement under which prisoners were exchanged. Faced with a shortage in food supply and a possible danger to the Confederacy most of the prisoners were sent to Andersonville



before construction was completed. Awaiting the prisoners were unconstructed barracks, poor drainage, inadequate water supply, and poor and uncooked food. Most of the prisoners who weren't diseased and fatigued before arrival, soon were, since disease ran rampant in the prison. In six months, 42,686\* cases of diseased and wounded prisoners received treatment from an inadequate medical staff and hospital. Nearly 13,000 prisoners died in less than a year's time. The North, not one to be left behind, utilized Andersonville as a propaganda ploy and Secretary of War Edwin M. Stanton ordered retaliation on Confederates held in Union prisons. After the war, Captain Henry Wirz, commander of the prison, was tried by military commission and on November 10, 1865 he was hanged.<sup>14</sup>

Salisbury. Moving North, the camp at Salisbury, North Carolina confined their Union prisoners in an old cotton mill. The Confederates managed to pack 10,000 prisoners in the mill. The conditions here were no better than at the other prison as the ever present Grim Reaper reigned in the guise of disease and starvation. Over 6000 men died from these causes during the latter months of the war.<sup>15</sup>

Camps of the North. This writer doesn't wish to give the impression that the prisoner of war problem wasn't a

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\*Figures shown are taken from the Encyclopedia Brittanica.

two-way street, for it was. The same problems existed in the North and the prison camp at Elmira, New York was a good example. In less than a year's time 3000 Confederate soldiers died from disease and hunger.<sup>16</sup> Once more we see the case of one belligerent treating his prisoners after his adversary's example. As usual it was the prisoners of war who suffered. With the ending of the Civil War, it wasn't until the next century that the United States was to face its next large threat and it would be an external one, World War I.

World War I. Burdened by the heavy loss of life from the sinking of three United States merchant ships by German submarines on March 18, 1917, President Wilson made the decision to go to war.\* This decision was made on March 20, 1917 and signed into law April 6 of that same year. Once again the stage was set for the prisoner of war by-product, always a result of the act of war.

The availability of information is extremely scarce pertaining to prison conditions of the first World War. This seems strange since there were "150 prisoner of war camps in Germany,"<sup>17</sup> the war lasted about four years, and the Allied and associated powers had 4,121,090\*\*prisoners

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\*There were many reasons for entering the war, economical, political, psychosocial, etc.; however, this event gave President Wilson the lead-in needed to enter the war.

\*\*All figures shown are from the Encyclopedia Britannica.

of war and missing in action (MIA). Although America was involved in the war for approximately 21 months, there were 4,500 of the prisoners Americans.

While not good, considering the time and conditions of the war, it could have been much worse for the prisoners of war. During the early stages of the war the biggest complaint at the Ruhleben Prison Camp was the food shortage. However, the prisoners were allowed to supplement their diet by purchasing additional food from the canteens which were available.<sup>19</sup> As the war progressed the complaints were focused on cramped quarters and poor facilities in addition to the diet. With the passing of time the penalties, which were almost non-existent in the beginning, became more strict. Solitary confinement for insignificant acts became commonplace. Usually anyone caught smoking at other than approved times was confined for 72 hours. "One prisoner in the hospital for heart trouble was caught smoking, was confined for 72 hours, then returned to the prison hospital to resume his interrupted cure."<sup>20</sup> Prisoners overheard making unfavorable remarks concerning the Kaiser were confined in solitary for four months. Those who escaped and were caught were placed in solitary confinement until the end of the war.<sup>21</sup>

Other camps such as Targan, Burg, Halle, Magdeburg, and Strohen were all similar to Ruhleben. However, Strohen

was rather unique in its location which was situated in a swamp extending for miles in all directions. The buildings consisted of dilapidated wooden huts and the commander was noted for his brutality and low I.Q.<sup>22</sup> One of the common complaints of the prisoners was lack of water, not to wash with but to drink. This was mentioned repeatedly by prisoners at Perigueux and Noirmontier. The prisoners had to sleep on the bare ground covered only with straw, which wasn't replaced and which after a few months turned to dust. The menu never changed morning, noon, and night. Meals consisted of hard bread and thick potato soup supplemented with beef remains only twice a week. Crowded rooms were filled with 46 men in each.<sup>23</sup> No other person was happier for this war to end than the prisoners. However, the hope that this was a war to end all wars was shattered with the bombing of Pearl Harbor.

World War II. Over twenty years of peace was terminated with the beginning of World War II. Although the treatment of Americans in prisons such as Stalagg 17, etc., wasn't any worse than the previous wars, the treatment of non-military prisoners was something quite different. The treatment of these prisoners was right out of the dark ages. Names like Auschwitz, Dachau, Ravensbruck,

Sachsenhausen, Flossenburg,\* and countless others still cry out in the night as reminders of untold atrocities, inhumane experiments, and complete disregard for human life. Things occurred to prisoners during World War II that would have revolted even Camte Donatien de Sade. As one captive said: "For you the war is over" were the first words most prisoners of war heard. What was left unsaid was "now hell begins." The worst kind of hands to fall into were those of the Gestapo. These troops were noted for their cruelty and their reputation of beating and mishandling of prisoners who would refuse to answer their questions.<sup>24</sup> Many prisoners arrived at the prisoner of war camps in sad shape after they had taken a mauling by the Gestapo.

Auschwitz (Oswiecim) is probably the most infamous of all the camps. "The Auschwitz death factory was directly controlled by Heinrich Himmler himself, the Reichsfuehrer of the S.S. and Police, the instigator of the gas chambers and crematoriums."<sup>25</sup> The camp covered 15 square miles and consisted of three main camps and 39 supplementary camps. One entire complex was used for mass extermination of prisoners in gas chambers and the cremation of their remains.

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\*Although not military war camps, the prisoners were no less prisoners of war and these camps serve as prime examples as to the extents a belligerent will go where prisoners are concerned.

Only those who were strong were allowed to live in the camp. All the others were exterminated. Not all of these were gassed as all sorts of methods were employed. People were left to die of hunger, disease, epidemics, or they were worked to death.<sup>26</sup> Many of the prisoners were used for sadistic experiments by the camp doctors and then gassed when the doctors were finished with them. But all horrors aside, the prison was most noted for its ability to liquidate people. During its peak there were about "200,000 prisoners"<sup>27</sup> suffering in the camp. Dr. Filip Friedman points out: "Probably June 29, 1944, was the record day; on that day, 24,000 people were gassed and burned." The total number exterminated at Auschwitz has been estimated between two and seven million. Rudolf Hoess, the commandant, confessed to the extermination of 2,500,000 people.<sup>28</sup>

Dachau was another camp of great notoriety based on its brutalities practiced by its managers. Registered prisoners alone totaled more than 206,000 and nearly 32,000 deaths can be certified, besides thousands killed before registration or sent from Dachau to extermination elsewhere.<sup>29</sup>

Japan. The Germans were not the only ones with a claim to fame concerning prisoners of war. Their feats were equaled by the Japanese. Probably the most publicized

was the Death March from Bataan. As a captive during the march wrote:

After the fall of Bataan on April 8, 1944 approximately 10,000 Americans and 45,000 Filipino prisoners were marched to San Fernando, Pampaga, a distance of about 120 miles. In most cases they went for days without water--one officer went so long without water that, presumably due to dehydration, he observed crystals in his urine.-- Many went days without food. When passing running streams the Japanese seldom allowed the prisoners to drink. The few who tried it were shot down and left dying where they fell.<sup>30</sup>

When prisoners fell out of line other prisoners were forced to bury them on the spot. One American prisoner stated:

. . . the worst time was once when a burial victim with about six inches of earth over him suddenly regained consciousness and clawed his way out until he was almost sitting upright. The other prisoner was forced to bash the soldier over the head with the shovel and then finish burying him.<sup>31</sup>

Another American prisoner described the treatment at the Cabanstuan Prison Camp as follows:

At the POW camp at Cabanstuan, 75 miles north of Manila, five American prisoners were being punished for friendliness to Filipinos. Their punishment consisted of being tied to stakes, just outside the camp, and allowed no food or water for 48 hours. One of the Americans apparently crazed by the combination of heat, hunger, and thirst broke out of his bonds and ran back inside his own barracks within the prison compound. After getting some water he retired to his own bunk. All five of the Americans were lined up and executed by rifle fire. There was no trial.<sup>32</sup>

The Japanese methods of torture were barbarous, fiendish and varied. The most popular was beating prisoners of war with clubs, whips, belts, and then their fist. One of the more popular at the Afuna Prison Camp was to make a prisoner stand blindfolded in a tub of cold water, in the winter, and then punch him in the stomach until he would collapse into the cold water. Then he would be left until he came to, no matter how long it took.<sup>33</sup>

#### Summary

The prisoner's lot has always been a "sorry" one with the usual theme being one of mistreatment. Since the beginning of the American Revolution through all of the wars the United States has fought, through World War II, the treatment of prisoners has been one of extremes ranging from simple hunger, to violent mutilation, to death. The one lesson that has stood out above all others is the need for a better treatment of prisoners of war. An attempt at this will be discussed in the following chapter.



### CHAPTER III

#### GENEVA CONVENTION

In this chapter the writer will trace briefly the development of events that led to the Geneva Convention in 1864 at Switzerland and from there to the 1949 revision. Some discussion will be given as to what the Geneva Convention is and what its provisions are.

Even though history has recorded the plight of the prisoner as a dark and dismal picture, occasional bright spots have managed to emerge from time to time. During the 18th and 19th centuries, a few countries made considerable improvement on the treatment of prisoners of war. During this period, philosophers began to develop the concept of more humane treatment of prisoners of war. This new concept was brought about by the growing revulsion against slaughter or mutilation of the wounded. Liberal views of Montesquieu and Rousseau were very influential on the treatment of prisoners of war. Montesquieu maintained that, "War gives no other right over prisoner than to disable them from doing any further harm by securing their persons."<sup>1</sup> A pioneer of some of the basic principles

underlying the Geneva Convention was Jean Jacques Rousseau. Rousseau in a celebrated passage in the *Contract Social* wrote:

The object of war being the destruction of the enemy State, one has the right to kill its defenders only when they have weapons in their hands; but immediately when they have put them down and surrender, thus ceasing to be enemies or agents of the enemy, they once more become ordinary men and one no longer has any right to their life. Sometimes one can extinguish a State without killing a single member of it; moreover, war confers no right other than that which is necessary for its purpose. These principles flow from the nature of things and are founded upon reason.

Even with these words spouting forth from the philosophers it wasn't until the latter half of the nineteenth century that soldiers of a beaten army, who surrendered to the enemy, had any recognized rights.<sup>3</sup> During this period a concept began to emerge that the soldier in a national army was a servant of his government and not to be held personally responsible for the actions of that government.

"Hence he was not subject to punishment for going to war. The prisoner had the right of repatriation, and it was due from the 'detaining state' and not from individual captors."<sup>4</sup> Hence, there was slow acceptance of the idea that a prisoner was a defenseless human being with a claim to protection against further violence and ill treatment; and that, moreover, he is entitled to treatment comparable to that of soldiers of the country in which he is detained.<sup>5</sup>

The prisoners entitlement to humane treatment first became evident in the United States when General Order 100 was issued: "The United States War Department General Order 100 issued in 1863 for use by the Union Army, was perhaps the first formal codification of rules for treatment of war victims. It has served as a basis for nearly every international agreement concerned with this subject."<sup>6</sup> The above general order was based on a set of instructions written by Professor Francis Lieber at the request of President Lincoln. President Lincoln had wanted Professor Lieber to prepare a set of rules in answer to appeals by humane citizens in both the North and the South for lenient treatment of captured Civil War soldiers, Lieber's "Instructions" were based on moral precepts which recognized the enemy as a fellow human being with lawful rights, and his code was a milepost on the road to civilization.<sup>7</sup>

#### Prelude to Geneva Convention

In this time frame, Henry Dunant, a citizen of Geneva who had witnessed 38,000 officers and men killed or wounded within the space of fifteen hours at the battle of Solferino, published his famous pamphlet "A Memory of Solferino." This pamphlet not only gave an account of what he had seen but it made two important proposals. The first was that each country should, in time of peace, set up a relief

society to aid the Army medical services in time of war. The second was that nations of the world should enter into a Convention acknowledging the status and function of the national relief societies.<sup>8</sup>

In 1863 Gustave Mounier set up a committee of five to study Dunant's proposals and out of this came the establishment of the Red Cross movement. The following year, 1864, delegates to an international congress in Geneva established the Amelioration of the conditions of Soldiers Wounded in Armed Forces, thereby giving wounded protection under international law. It was ratified by all the Great Powers, except the United States, in 1867. In 1882 the United States ratified the treaty.<sup>9</sup> There was no mention made in this treaty of prisoners of war.

Elizabeth Vaughn in her book, Community Under Stress, states:

The earliest International Convention that relates specifically to the treatment of prisoners of war is to be found in the Annex to the Hague Conventions of 1899, setting forth the Laws and Customs of War on Land. This convention was ratified or adhered to without reservation by 46 of the leading nations of the world. The Hague Convention II of 1899 was followed, and in effect supplemented, by the Hague Convention IV of 1907, which covered the same subject matter.<sup>10</sup>

The Fourth Hague Convention of 1907, so far as prisoners of war were concerned, remained in operation until the Geneva Prisoners of War Convention of 1929 and was the

relevant Convention governing the treatment of prisoners during the First World War. Though World War I was fought under these rules they were not legally binding since all participants, including the United States, had not signed.<sup>11</sup> The 1907 Hague Convention, which had formulated rules pertaining to captivity in war, led to the two most important Geneva Conventions which were held in 1929 and 1949.

#### Geneva Convention of 1949

As the preparation for the 1949 Convention was being made it was inevitable that the protection of war victims could not be left to the hazardous and debatable determination of the existence of a legal state of war. This was a hard lesson learned during World War II. The phrase "Armed Conflict" came into being. This phrase was to cover any situation in which differences between two States leads to intervention of armed forces.<sup>12</sup>

G.I.A.D. Draper, in his book The Red Cross Conventions, gave this brief overview of the seven main points of the convention of 1949. He states:

The Convention of 1949 is first and foremost a code of legal rules, both fundamental and detailed, for the protection of prisoners of war throughout the period of their captivity. Secondly, these rules are based upon and are designed to prevent a recurrence of the appalling experience of the recent war. (World War II) Thirdly, the guiding principle underlying all the articles is that humane and decent treatment is a right and not a favor conferred on men and women of the armed

forces who have been captured in the tide of war. Fourthly, there is clear recognition that prisoners of war are the victims of events and are not criminals. Fifthly, there is the acceptance that prisoners of war owe no allegiance to the Detaining Power. Sixthly, there is the detailed application of the general principle that both the legal status and the ensuing rights of prisoners of war shall be assimilated as closely as possible to those of the members of the Armed Forces of the Detaining Power. Seventhly, provision has been made for a comprehensive role to be played by the Protecting Power, the ICRC (International Committee of the Red Cross) and other relief organizations.<sup>13</sup>

Thus we have four Geneva Conventions. The first being the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the field. The second was the Second Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Next was the Third Convention Relative to the Treatment of Prisoners of War. And finally the Geneva Convention Relative to the Protection of Civilian Persons in Time of War.<sup>14</sup> The four Geneva Conventions consisted of 427 articles which eliminated a number of known ambiguities of the 1929 Conventions under which World War II was fought. It spelled out matters which were left to discretion in 1929 and established absolute standards.

The four conventions were completed August 12, 1949 and came into force in October 1950. They are now part of the law of war.<sup>15</sup> There are now 70 signatories to the Convention with the first being Switzerland, on March 31,

1950 and the last being the Dominican Republic on January 22, 1958. It is interesting to note that the United States signed in 1955, the USSR in 1954, China in 1956, North Vietnam in 1957, and North Korea never signed.

Although the conventions set forth in detail the rights and protections to be afforded prisoners, they do not prescribe specific conduct which a nation may expect of its personnel who may become prisoners. This is left to the sovereign right of each nation. There are, however, several provisions of the Conventions which do require specific conduct. Prisoners are subject to the laws, regulations, and orders in force within the armed forces of the detaining power. They may be punished for infractions of rules. They must divulge name, rank, service number, and date of birth.<sup>16</sup> It has been the interpretation of these provisions that has permitted the Communists to avoid their intent and to use them as justification for ill-treatment of captives.

#### Summary

In summary the steps leading up to the Geneva Conventions have shown that the states have progressed from an era where there was absolutely no rights given to prisoners of war, in fact his fate was usually death, to the point where his individual rights are absolute standards which

are spelled out by the Geneva Conventions. The World owes a great deal of gratitude to men like Montesquieu, Jean Jacques Rousseau, Professor Lieber, and Henry Dunant for putting their foresight into words which led to the arousal of the people to the plight of the prisoner of war.



## CHAPTER IV

### NORTH KOREA

This chapter will continue the discussion of the prisoner of war's plight. However, it will be relative to North Korea. Discussed will be the Communist's policy toward the Geneva Convention, specific cases of how the conference was violated, and its effectiveness.

This conflict led the United States into her first exposure to limited war. When fighting a holding war with no intention of invading or conquering the competing nation, the prisoner of war becomes a problem of great concern. For in this type of war, which is usually fought on the opposition's terms, there is the uncertainty of a never-ending conflict. When a nation has no intention of crossing an imaginary line drawn across a continent, his country will never invade the enemy's homeland and release him from his confinement. Therefore, there is no hope for the prisoner of war other than escape or peace.

#### Geneva Convention

Just prior to the Korean conflict, the Geneva Convention was revised and its concept was broadened. The term

prisoner of war was made to include not only members of the regular armed forces who had fallen into the hands of the enemy but also the militia, the volunteers and members of resistance movements if they formed a part of the armed forces. It also included persons who accompany the armed forces without actually being members, such as war correspondents, civilian supply contractors and members of labor service units. This means that just about anyone who was captured and has obeyed the laws of war comes under the rights of the Geneva Convention.

On June 25, 1950 military forces of the Communist regime in North Korea invaded the Republic of Korea, whereupon the Security Council called on all United Nations members to come to the assistance of the Republic of Korea "to repel the armed attack and to restore international peace and security in the area."<sup>1</sup> Although this was not a declared war, the United States was once more at war.

When the Korean War broke out in 1950 neither the United States, the largest contributor of armed forces for the United Nations side, nor Communist China and North Korea on the other side had formally ratified the Geneva Convention of 1949, but early in the conflict each side announced its adherence to the principles of the Convention.<sup>2</sup>

### Communist Policy Toward Geneva Convention

Even though the North Koreans and Communist China had initially agreed to follow the principles of the Geneva Convention it wasn't long before the Communist started using the Nuremberg Trials as a means to take exception to the Geneva Convention. They contended that United States servicemen were not prisoners of war but war criminals, and as such are not protected by the Geneva Convention. Even prior to the Korean conflict this problem had been foreseen by Senator Mike Mansfield. During a hearing before the Committee of Foreign Relations in 1949 the Senator said, ". . . I can envisage a possibility of Nuremberg Trials perhaps being conducted in reverse at some future date because the precedent has been set."<sup>3</sup> As it turned out Senator Mansfield wasn't the only one concerned.

The Geneva Convention was aware of the Nuremberg precedent and Article 85 had been included as an attempt to repair the damage done by the trials. Article 85 reads, "Prisoners of War prosecuted under the laws of the detaining power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Conventions."<sup>4</sup> Even as the Communists were using this excuse they were formulating others.

Another means of avoiding adherence to the Geneva Convention, which was later voiced by the Communists, was the

fact that the Korean conflict was not a declared war, however, a nation is no less a belligerent by reasons of having resorted to aggressive war in violation of international law. Nor is a declaration of war necessary to create a state of belligerency. The United States and Communist China were belligerents during the Korean conflict despite the fact that both parties avoided characterizing the hostilities as war.

The 1949 Geneva Convention for the Protection of War Victims applies not only to declared war but to any armed conflict between parties to the Convention and to the occupation of the territory of a party even if unresisted. Under the Geneva Prisoners of War Convention of 1949, lawful belligerents comprise members of militias, volunteer corps, and organized resistance movements who are commanded by a person responsible for his subordinates, have a distinctive sign, carry arms openly and conduct operations lawfully.<sup>5</sup>

Article 2 of the Conventions states that they are to "apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."<sup>6</sup> Article 2 is binding both in peacetime and in war so once it comes into play, namely war, armed conflict, or occupation, no party to the Convention

can legitimately advance any pretext for their non-observance.

Thus if Communist China and North Korea wanted to enjoy the propaganda and favorable world opinion they had to find ways to avoid complying with the Convention by convincing the world that their opponents were not protected by the Geneva Convention. Communist China and North Korea could not state publicly that since they were not signatories they would not comply with the Conventions because they along with the United States have stated that they would adhere to the Conventions.

So one must assume, by their own statements, all parties were bound by the Geneva Convention. However, the Communists were soon to show how they would comply.

#### Specific Cases of Prisoner Treatment

Treatment of prisoners by the Communists was frequently barbaric. Movement from the front lines to prison camps turned into death marches for hundreds of prisoners of war. In the prison camps food consisting chiefly of rice was meager. The Communists pointed out that this diet conformed with the Geneva Convention in that it was the same as that eaten by the detaining forces, but for United States troops it amounted virtually to slow starvation, sickness and death.<sup>7</sup>

Article 17 of the Convention states in part:

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or, failing this, equivalent information.<sup>8</sup>

This gave prisoners the specific right to refuse to divulge anything beyond these basic facts. Supporting a prisoner's right to keep silence, the Geneva Convention further stated:

No physical violence or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of War who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.<sup>9</sup>

In direct contradiction to these rules, Communist interrogation almost always made use of coercion. It was, in fact, the most essential part of the Communist interrogation technique. Prisoners were threatened with non-repatriation, for instance, if they didn't talk. It was standard procedure for an interrogator to lay a pistol on the table in front of him at the start of each session, to serve as a reminder to the prisoner that if he did not cooperate, he might be shot. Torture was also constantly threatened. However, no one was shot for failure to cooperate at interrogations.<sup>10</sup> Another violation of the Conventions occurred when members of the International Red Cross were not allowed to make regular visits to the prison camps.

In addition to using interrogation and lack of communication with the Red Cross, the Communists also made use of still another, less important, but just as effective maneuver--they manipulated the flow of the prisoners' mail. Lieutenant Colonel Charles M. Trammell, Jr., who was serving as special counsel to G-2 and had done much interrogation with the returned prisoners, stated:

The Communist made not the slightest effort to comply with the Geneva Convention's basic provision about mail. This provision states that every prisoner, as soon as possible following capture, and not more than a week after his arrival at a camp, shall be allowed to write directly to his family, and also to the Central Prisoners of War Agency provided for in Article 123 of the Convention, notifying both of his capture, his whereabouts, and his state of health.<sup>11</sup>

In Korea mail was delivered only at highly irregular intervals. One prisoner stated that: "Of the 125 letters he received in three years of captivity, 54 were delivered at one time and 26 within the following month."<sup>12</sup> As for outgoing mail, only a small fraction of the letters written by prisoners ever reached their destination. As to what became of the letters that did not arrive, there may be some clue in the reports made by a number of prisoners who had been sent out together on a work detail; these men said: "they came upon several hundred letters from prisoners dumped in a drainage ditch by the side of the road."<sup>13</sup> The Communists used the mail as an instrument

of persuasion. They would let the mail through to the prisoners if it would disrupt his peace of mind, that is the complaining letters or the depressing ones. Since the prisoner was bound to feel that any complaint from someone safe and free in the United States was entirely unreasonable, this was very effective persuasion.<sup>14</sup>

Control of the mail wasn't the only psychological technique used. The methods used with the Air Force were different than those used against the Army. Several reasons are offered but the most logical is that the number of Air Force personnel captured was much smaller than that of the Army. This education level was much higher and the majority were officers. Because of the higher education levels, the Communists decided not to attempt indoctrination, instead they tried isolation and extreme psychological pressures to achieve at least a temporary alteration of character. The end purpose was to get a confession of chemical and/or bacteriological warfare, which would then be publicized for propaganda purposes. Prisoners were kept isolated, often in the most confined and uncomfortable places, sleep and food were limited, wounds and ailments were left untended. After fatigue set in he would be interrogated day after day hoping to make him feel helpless, alone, and forsaken by his comrades, and his only hope for life was to cooperate.



One of the more adamant types to be put through this type of punishment was an Air Force lieutenant who, in the words of an Air Force research official, stated that:

After being classified as a war criminal he was interrogated and pressured for four months by the Chinese Communist. Eight times he was ordered to confess, offered relief if he did, death if he didn't. Eight times he refused. He was stood at attention for five hours at a time, was confined eight days in a doorless cell less than six feet long, held to the ground by two guards while a third kicked and slapped him, stood at attention another time for twenty-two hours until he fell and was then hit while lying down with the side of a hatchet and stood up for two hours. He was interrogated three hours with a spotlight six inches from his face. He was ordered to confess while a pistol was held at the back of his head. He was placed under a roof drain all night during a rainstorm. He was left without food for three days. He was put before a firing squad and given a last chance, hung by hands and feet from the rafters of a house. When he still refused, the Communist let him alone. They had apparently given him up as an impossible case. He came back alive.<sup>15</sup>

Another similar case was an Air Force Captain, Theodore Harris, who was held in solitary confinement for 14 months, much of it was spent handcuffed in a small thatched hole in the ground.<sup>16</sup>

Not all North Korean prisoners of war were treated this harshly. Those who were usually between the ages of 18 and 24, usually of above average intelligence but without much formal education, or social maturity were classified as progressives who would be likely prospects for indoctrination. Most of these were from the Army since

they met these requirements more often than the other services. These men were given little physical work to do, and never left to themselves, but were always urged to study. The emphasis was all on re-education; and often boredom at having nothing better to do than read Communist textbooks drove the progressive to do exactly as his captors wished.<sup>17</sup>

#### Effectiveness of Geneva Convention

So it seems the harshness of the Communists toward their prisoners ranged from brutal beatings, possible death, to indoctrination with no physical abuse. It is obvious the Geneva Convention had little, if any, effectiveness relative to the treatment of the prisoners of war. It is this writer's opinion that their treatment would have been no better or worse without the Geneva Convention. The Communists only used it as a ploy when it was advantageous to their cause. Even in the final days when the treaties were being drawn up the Communists continued to fail to comply. There are still some 1,100 Americans who have not been accounted for to this day. When pressed for answers the only reply eventually given was that 570 prisoners had died, 153 had escaped and 3 had been released.<sup>18</sup> Their answer was only half-heartedly given and no satisfactory answer has ever been obtained.

### Summary

In summary, it has been shown that both sides publicly committed themselves to compliance with the Convention. However, the Communist policy soon divorced itself from the Convention. There is little doubt that the Geneva Convention was for the most part ineffective. In the following chapter on North Vietnam there will be many recognizable similarities.

## CHAPTER V

### NORTH VIETNAM

With the committing of American forces to South Vietnam, the United States was once more engaged in a limited war. Once more the United States was fighting a battle in which the tactics were to be those of a holding war. For the second time the stage was set in which prisoners of war were to be of grave concern. However, no one realized this conflict would stretch from 1964 until early 1973. The prisoners of this war were to be held longer than in any other war.

This chapter will discuss the plight of United States prisoners of war in North Vietnam, the North Vietnamese policy toward the Geneva Convention, some specific cases of how the Convention was violated, and its effectiveness.

#### Plight of United States Prisoners

When Vietnam was divided after the defeat of the French, it was considered that both South and North Vietnam were still legally bound to abide by the Geneva Convention for the treatment of prisoners of war. This was to apply irrespective of whether the hostilities might be declared war or not.

It wasn't long before it became evident to the United States that Hanoi had no intentions of honoring the Geneva Convention. Almost immediately the North Vietnamese began denouncing American men as not being prisoners of war but war criminals, and hence not protected by the Convention. Using the criminal charge to mask its defiance, Hanoi not only rejected inspection of its camps, but refused to release the sick and wounded, allow proper flow of letters and packages, or protect United States prisoners from public abuse.<sup>1</sup>

This reasoning is invalid. The Geneva Convention does not go into the matter of legitimacy or illegitimacy of a war. If a man is in the military service, is wearing his country's uniform, and is captured, he is a prisoner of war and entitled to human treatment under the Convention, which North Vietnam has signed. As mentioned in the previous chapter on North Korea, Article 2 of the Geneva Convention covers this specifically.

The North Vietnamese made no attempt to comply with the Geneva Convention's provision about mail. During 1964 only a total of eight letters were received by American families of the prisoners of war. In 1968, after a period of four years, only 246 letters were received by American families. If this sounds like a large amount of letters it must be remembered that the number of men classified as prisoners of war or missing in action was 1,243.<sup>2</sup>

If the prisoners had been allowed to write letters as dictated by the Geneva Convention their families would have received about 6,000 letters per month. But only 1,100 letters were delivered during the entire first five years.<sup>3</sup> It should be pointed out that of all the prisoners held in North Vietnam, fewer than 100 were allowed to write home. This served a two-fold purpose in that it kept the number of captives secret and it had a demoralizing effect on many of the prisoners.<sup>4</sup>

Mrs. Jerry McCuistion was an example of how few letters a family could receive. After having his F-4 shot down over North Vietnam, her husband, Captain Michael McCuistion, was captured May 8, 1967. From the time of his capture until his release early in 1973, Mrs. McCuistion received a total of 16 letters. This equated to just over two letters a year, and she was one of the lucky ones. If the North Vietnamese had been abiding by the Geneva Convention, Mrs. McCuistion could have received over 200 letters.<sup>5</sup>

In keeping with their war policies on the writing of letters, the North Vietnamese followed those same guidelines when it came to releasing the list of prisoners of war. The Geneva Convention provides that every prisoner as soon as possible following capture, and no longer than a week after his arrival at camp, be allowed to notify the Central Prisoners of War Agency provided in Article 123 of

of the Convention. This allows for an official listing to be compiled and the families notified. This notification was never allowed. The only notification was an occasional appearance of prisoners on propaganda film and the 100 or so families who received letters during the campaign. Some identification was possible through the few prisoners released in the later years of the campaign, which was also done for propaganda purposes. So out of the 1,500 men listed as missing or presumed captured, some 800 in North Vietnam, 500 in South Vietnam, and 200 in Laos,<sup>6</sup> there were hundreds of wives that didn't know whether they were wives or widows. It required up to eight years of suspense for some of these wives to find out. It wasn't until the signing of the truce in Paris on January 27, 1973, that the official list was released. Then it was learned there were only 555 prisoners of war.<sup>7</sup> Out of the 800 listed in North Vietnam there were only 456, from the 500 believed to be in South Vietnam there were only 92, from the 200 thought to be in Laos there were only 7, and 2 turned up in Communist China. This means that almost 1,000 families suffered unnecessarily.

There were a total of 55 known prisoners who died in captivity.<sup>8</sup> Had Hanoi been following the provisions of the Geneva Convention, which requires the release of the

sick and the wounded, perhaps the lives of these men could have been saved.

### Violations of Geneva Convention

Using the same criteria as used with the mail and official listing of prisoners of war, Hanoi completely rejected the rights of the International Convention of the Red Cross (ICRC) in accordance with the Geneva Convention.

In August 1965, the ICRC addressed an appeal to the principle parties to the Vietnam conflict, asking them to abide by the provisions of the Geneva Conventions. It reminded North Vietnam, the Government of the Republic of Vietnam, and the United States that all were parties to the Conventions and sent a copy of the appeal to the National Liberation Front on the grounds that it, too, was bound by the undertakings signed by Vietnam. Along with other specified points, the ICRC said that it should be permitted to serve as a neutral intermediary and ICRC delegates should be authorized to visit prisoner of war camps.

In reply, the United States and the Government of the Republic of Vietnam undertook to respect the Geneva Convention in their treatment of prisoners and arranged for the ICRC to visit prisoner of war camps in South Vietnam. Other Free-World countries with forces in South Vietnam



subsequently joined in affirming the applicability of the Convention. There were six prisoner of war camps in South Vietnam, holding thousands of prisoners, operated by the Government of the Republic of Vietnam, with United States adviser present. The camps were regularly visited by ICRC delegates and doctors. Any complaints or comments were reported by the ICRC, and corrective action taken. After initial processing and classification, all enemy prisoners captured by the United States forces were turned over to the Government of the Republic of Vietnam for permanent detention, a procedure outlined by Article 12 of the Geneva Convention

North Vietnam and the National Liberation Front in separate letters to the ICRC rejected the applicability of the Geneva Convention and in particular refused to accept the ICRC as a neutral intermediary. Although acknowledging that it had acceded to the Convention in 1957, the Hanoi government once again said it did not apply to the captured prisoners because there had been no declaration of war and because they were war criminals. These claims are invalid (Article 2) and, in any case, Hanoi's mere assertion to this effect does not deprive them of their rights under the Geneva Convention.

Throughout the conflict the ICRC continued its efforts to visit prisoners in North Vietnam, but to no avail. Its

repeated applications to enter North Vietnam were persistently denied. North Vietnam did, however, frequently send the ICRC complaints alleging United States bombing of villages, hospitals, and civilian targets in North Vietnam. The United States proposed that these charges be investigated by the ICRC, but North Vietnam rejected these offers as well.<sup>9</sup>

The term war criminal and war crimes kept coming up throughout the campaign. In 1966, for example, Hanoi threatened to try the United States prisoners on charges of war crimes. Preparations for the trials appeared to be moving forward. Specific allegations of war crimes were broadcast on the Communist propaganda media.

There occurred a worldwide outpouring of criticism and concern about Hanoi's proclaimed intentions. Newspapers in this country and abroad denounced the plan. Members of the House and Senate representing a wide range of opinion joined in warning North Vietnam that such sham trials could not be tolerated. A number of governments also made known their opposition to such proceedings. For the record, this chorus of protest forced Hanoi to announce the trials had been set aside. However, the real reason the trials did not take place emerged when Russia told Hanoi that this would be the one thing which would cause the United States to wipe Hanoi off the face of the map forever.<sup>10</sup>

### Specific Cases of Convention Violation

Turning now to the treatment of the prisoners themselves, there is mixed evidence. Former Secretary of Defense, Melvin R. Laird, stated: "There is clear evidence that United States prisoners are not being treated humanely and that conditions in the prison camps are shocking."<sup>11</sup> Other sources say that the treatment wasn't too bad. In talking with some of the released prisoners of war, this writer believes that possibly both existed with the former being more prevalent. Those released cannot make comments on the conditions for fear of reprisal on the men yet to be released. However, certain things slip when talking in private which clearly indicate harsh treatment.

As Army Captain Mark A. Smith, who was captured in April 1972, stated: "The American people do not know what goes on in a place like that (Viet Cong Camp), and it will be a shock to many of them."<sup>12</sup>

One of the prisoners returned to Maxwell Air Force Base, for treatment, had Beri-Beri and never received any treatment while imprisoned for almost seven years. Today he has only side vision, can never fly or drive again, and requires special glasses to read. All this could have been avoided with a proper diet or some vitamin B.

The treatment of prisoners was broken down into two stages. The first stage was before October 1969, and the

second stage after. Official sources say that before October 1969, psychological and physical torture often occurred. Prisoners were hung upside down from beams until they were ready to talk, made to stand for hours without being allowed to move, and forced to crawl through latrines fouled with human excrement. They were beaten with clubs and rifle butts.<sup>13</sup>

### Types of Prisons

Prisoner treatment, of course, varies, and it should be kept in mind that there are also three types of prisons --a jungle camp operated by the Communist Pathet Lao; a Viet Cong jungle camp; and a North Vietnamese institution known as the "Hanoi Hilton."

The Pathet Lao camp is a bamboo stockade of primitive thatched huts. Prisoners are fed twice a day, mostly rice but with occasional supplemental foodstuffs. Many suffered from malnutrition. Some were inflicted with intestinal parasites. Except when allowed outside to empty toilet pails, prisoners were confined inside the huts. Often locked in crude wooden foot blocks or handcuffs. Barbaric treatment, including beatings, was not unique.<sup>14</sup>

Most prisoners held in the South by the Viet Cong suffered an even worse fate. Chained in separate cages, they were kept in total isolation. Unable to communicate

or even move, they could only watch as the guards shoveled ants and other insects into their cages.<sup>15</sup>

A specific case of torture and inhumane treatment is the much publicized story of the capture, escape, evasion, and rescue of Navy Lt. (j.g.) Deiter Dengler in 1966. Captured by the Pathet Lao and eventually turned over to North Vietnamese soldiers, Dengler was spread-eagled by his captors and at night left to the mercy of jungle insects, tied to a tree for harassment target practice, repeatedly beaten with fist and sticks for refusing to sign a statement condemning the United States, and tied behind a water buffalo and dragged through the bush. The once 180-pound flyer weighed 98 pounds following his escape and rescue.<sup>16</sup>

In Hanoi prison camps the treatment was somewhat better. The daily routine was more formalized. Prisoners were fed two meals a day. Food consisted mainly of pumpkin or squash, pork fat, a vegetable resembling wild onion tops, and bread or rice. The medical care was at best barely adequate. One officer, Navy Lt. Frishman, having been wounded in the right arm, had half his arm cut off by the North Vietnamese doctors. He is thankful it wasn't the whole arm, but not for the metal fragments his captors neglected to remove. Not until he was freed two years later and treated by United States surgeons, did his wounds heal.<sup>17</sup>

Probably the worst treatment the prisoners in Hanoi suffered was the abuse they were subjected to when they were periodically marched through the city for public display. This was done frequently following heavy bombings. This harassment led to several being beaten and some were stoned.

#### Summary

In conclusion, once again it is seen where two conflicting nations are both signatories of the Geneva Convention, but only one, the United States, complying with it. The similarities between the North Vietnamese and the North Koreans, as far as treatment of prisoners of war, are many. As with the North Koreans the ineffectiveness of the Geneva Convention is just as great.

## CHAPTER VI

### CONCLUSION

In tracing the plight of the prisoner of war from the beginning of time, and for the American prisoner of war from the American Revolution to the termination of the Vietnam war, there seems to be a reoccurring theme which is always present. The fate of the prisoner seems to rest almost solely with the captor.

In the beginning this fate was one of death since prisoners were not held captive. It was only a matter of how much torture the prisoner could tolerate before he was killed. Slowly, through the evolution of time, man began to think of prisoners as more than objects to be killed. With the passing of time and through the writings of such philosophers as Hugo Grotius and Montesquieu, prisoners began to be thought of as human beings.

However, the treatment of prisoners did not always follow the philosophical lines of Grotius and Montesquieu. In all of the wars, in which the United States engaged prior to the Geneva Convention of 1949, from the American Revolution through World War II, the predominant treatment

of the prisoners has been barbaric. In fact, treatment is the wrong word, it should be called maltreatment. Such things as malnutrition, disease, torture, solitary confinement, and death seemed to be common terms. This treatment seemed to reach its peak with the United States involvement in World War II.

Once this second world war was ended the magic "cure all" was supposed to be the Geneva Convention of 1949.

This Convention was prepared with the prisoner of war as the main theme. The guidelines were those which the capturing nations were to follow. These rules generally stated were that the prisoner of war was to be treated in a humanitarian manner since he was a defenseless human being. These rules set forth were supposedly absolute standards.

Even though the United States, Communist China, and North Korea were not signatories, the Korean conflict was to afford the Geneva Convention its first testing. All of the parties involved, United Nations, Communist China, North Korea, and the Republic of Korea, had agreed to abide by the Conventions. It didn't take long to realize that neither Communist China nor North Korea had any intentions of complying with the Conventions.

The same outcome was repeated in the Vietnam conflict, and in this war both parties were signatories of the Geneva Convention.



Now one comes to the question of how effective is the Geneva Convention? After careful study this writer can conclude that the Geneva Convention is only as effective as the involved nations are willing to let it be. There is no way of enforcing the terms outlined by the Convention and in this era of limited conflict there is even less control. Only in a world where there is an International Government with the power to enforce the rules could it ever be effective.

World public opinion cannot be used as an enforcer of the Geneva Convention. For to be effective, the belligerent must be concerned about public opinion and the last two opponents of the United States, since the initiation of the Convention, haven't been bothered in the least by world public opinion.

The United States or any other Free-World power could never influence or force the North Koreans or the North Vietnamese into complying with the Geneva Convention. Possibly the only way would have been with the threat of nuclear annihilation, but in order to do so the United States would have had to be willing to back up this threat and both of the opponents were sure, and justly so, that this would never come about.

Probably the only effectiveness the Geneva Convention has had was indirectly. If either of these countries

could use it to their advantage for propaganda purposes, then it might have had a small term effectiveness. Even such a small return would make the Geneva Convention worthwhile. If it relieved the suffering of one prisoner for one day then the time and effort have been well spent.

As for the future effectiveness of the Geneva Convention, this writer believes that the same old theme is still there--the fate of the prisoner is still up to the whims of his captor.

Additionally this writer believes that it is profitable to continue negotiation with the opposing belligerent. For even though negotiations are usually long term affairs, it is never known when an advantageous situation to both sides will arise and the termination of conflict is the only true solution to the prisoner of war problem. For only in repatriation can the prisoner's wounds be soothed and hopefully healed.

The cultures of the world hold the real key to the effectiveness of any system which is to be humanitarian toward prisoners. These cultures must develop to the point where all people are sensitive to the feelings and situations of their fellow human beings. However, once this degree of sensitivity is reached, there would probably be no need for this type of institution for prisoners of war, since there probably wouldn't be any wars. All things

considered, however, this writer doesn't advise the holding of breath until this degree of sensitivity is reached.

#### Recommendation

This writer makes no recommendations. The Geneva Convention is as good a guideline as needed. The problem is not with the Geneva Convention, but with the unwillingness of the belligerents to comply with it.

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